

REMARKS

The Examiner has made a restriction requirement between claims 1-14, drawn to a composition and claims 15-20, drawn to a process. The Examiner states that in the instant case, the product as claimed can be made by another and materially different process. This restriction requirement is improper.

The Examiner states that the recited composition can be made by "a flexible fibrous web having the recited composition". This is meaningless. It says nothing about the type of process employed to make the composition and the Examiner gives no indication or direction on how one may proceed. Based upon the present restriction requirement, it is submitted that it is improper and, therefore, the undersigned requests that the restriction requirement be withdrawn and that all the Claims be examined.

As stated in paragraph four of the non-final Office Action, the undersigned did provisionally elect with traverse to prosecute the invention of claims 1-14.

This Amendment and Response is being submitted in response to the Non-Final Office Action mailed October 18, 2005. Claims 1-14 are pending in the Application. Claims 1-14 stand rejected. Specifically, claims 10-12 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Glaug et al. (U.S. Pat. No. 5,601,545) in view of Jennergren et al. (U.S. Pat. No. 6,368,990), and in further view of Seal et al. (U.S. Pat. No. 5,041,104).

In response to these rejections, Applicants offer the following amendments and remarks. These are fully supported in the specification, drawings, and claims of the

Application and no new matter has been added. Based upon the following amendments and remarks, reconsideration of the Application and withdrawal of the rejections are respectfully requested.

Rejection of Claims 10-12 Under 35 U.S.C. 112, Second Paragraph

Claims 10-12 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically, the Examiner states "Claims 10-11 are indefinite because it is unclear how these two claims further define claim 1. These claims appear to broaden claim 1, instead of further limiting claim 1."¹

Applicants have used "comprising" language in claim 1 with respect to the absorbent. Therefore, at a minimum, the absorbent must contain wood pulp fluff. As the Examiner is surely aware, limitations utilizing the "comprising" language are not limited to the recited components, but rather can contain other components as well.

Claims 10, 11, and 12 further limit claim 1 by restricting the class of absorbents that are covered by the claim language. For example, claim 10 requires that the absorbent comprise both wood pulp fluff (recited in claim 1) and an additional "natural absorbent, or a synthetic absorbent, or a mixture of these" (recited in claim 10). Thus, the scope of each of claims 10, 11, and 12 is progressively narrower than the previous claim. Claim 11 has been amended to exclude wood pulp fluff from the additional absorbents.

Applicants respectfully submit that this rejection has been traversed, and its immediate withdrawal is respectfully requested.

¹ Office Action, page3, numbered paragraph 6.

***Rejection of Claims 1-14 Under 35 U.S.C. 103(a) –
Glaug et al. '545, Jennergren et al. '990 and Seal et al. '104:***

Claims 1-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Glaug et al. (U.S. Pat. No. 5,601,545) in view of Jennergren et al. (U.S. Pat. No. 6,368,990), and in further view of Seal et al. (U.S. Pat. No. 5,041,104). The Examiner admits that Glaug et al. do not teach using hollow synthetic fibers. Further, the Examiner admits that Glaug et al. do not teach forming an absorbent layer or panel by air-laying. However, the Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of the references in order to obviate the invention.

Jennergren et al. is known to the Applicants and described in the Application as filed.² Therein, the Applicants state that while Jennergren et al. disclose a multilayer composition that can be used as a top or bottom sheet in a diaper, it does not teach the use of hollow fibers in an absorbent core. Jennergren et al. clearly state that:

[t]he fabrics of the invention can also be used as components of other nonwoven fabric laminate structures as known in the art. For example, fabrics formed of hollow spunbonded filaments and/or hollow staple fibers are useful as components in disposable hygiene products, such as coverstock (topsheet, backsheet), leg cuffs, etc. in disposable diapers.... [A] [d]isposable diaper includes a substantially liquid impermeable backsheet layer, an absorbent layer positioned on backsheet layer, and a liquid permeable topsheet layer positioned on absorbent layer. [A] [d]iaper also can include a liquid acquisition and transport layer as known in the art disposed between absorbent layer and topsheet layer.

...Backsheet layer and/or topsheet layer can include as a component a fabric of the invention which includes hollow spunbonded filaments and/or hollow staple fibers.³

² See Application as filed, page 3, paragraph 2.

³ See U.S. Pat. No. 6,368,990, col. 6, line 40 – col. 7, line 9.

Note that there is no mention of use of the fabric of Jennergren et al. in the absorbent layer of a diaper or other material. Jennergren et al. simply do not teach the use of hollow fibers within the absorbent layer of its multilayer nonwoven absorbent. Jennergren et al. only use hollow fibers in the surrounding top and bottom sheets. Thus, it would not be obvious to one of ordinary skill in the art to combine the hollow fibers of Jennergren et al. into an absorbent layer, since Jennergren et al. only disclose using these fibers in the surrounding top and bottom nonabsorbent layers.

Applicants have amended independent claim 1, and corresponding dependent claims, so that it more succinctly delineate the claimed subject matter. As amended, claim 1 now recites:

1. A single layer air-laid ~~composition~~ absorbent pad comprising: hollow synthetic fiber, absorbent, and a binder system, wherein said binder system is a bicomponent fiber, and wherein said absorbent further constitutes wood pulp fluff, and wherein said binder system, said hollow synthetic fiber, and said absorbent are bound together into a unitary structure.

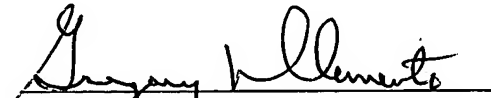
In light of the amendments to claim 1, Applicants submit that the Jennergren et al. reference is no longer prior art. As stated above, Jennergren et al. disclose the use of hollow synthetic fibers within topsheets and backsheets of a diaper, or other absorbent article, but do not disclose use of hollow synthetic fibers within the absorbent layer of the article. Neither Glaug et al. nor Seal et al. disclose the deficiencies of Jennergren et al. Applicants respectfully submit that this rejection is therefore moot in light of the current amendments. Furthermore, none of the cited references disclose that the binder system, the hollow synthetic fiber, and the absorbent are bound together into a unitary structure. Support for this limitation can be found on page 4, paragraph 3 of the application as filed.

CONCLUSION

Applicants would like to thank the Examiner for the attention and consideration accorded the present Application. Should the Examiner determine that any further action is necessary to place the Application in condition for allowance, the Examiner is encouraged to contact undersigned Counsel at the telephone number, facsimile number, address, or email address provided below. It is not believed that any fees for additional Claims, extensions of time, or the like are required beyond those that may otherwise be indicated in the documents accompanying this paper. However, if such additional fees are required, the Examiner is encouraged to notify undersigned Counsel at the Examiner's earliest convenience.

Respectfully submitted,

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